

REMARKS

The allowance of Claims 1-19 and 40 is acknowledged with appreciation.

Claim Objections

Claims 34 and 35-39 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claims 34 and 35 are amended herein to depend from Claim 32.

Claim Rejections – 35 U.S.C. § 112

Claims 47-58, 61 and 62 are rejected under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements. Claims 47, 49, 50, 54, 61 and 62 are amended to require "a movable member." Support for the amendments to claims 47-58, 61 and 62 is found in the specification as originally filed, for example, at column 5, line 44.

Claims 48-50 and 55-57 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claim 48 is cancelled without prejudice. Claims 49 and 50 are rewritten in independent form overcoming the 35 U.S.C. § 112, second paragraph, rejection. Claims 55-57 are amended to particularly point out and distinctly claim the end closure as the same one in claim 54.

Claim Rejections – 35 U.S.C. § 102

Claims 20, 22, 24, 29, 32, 34, 41, 42, 47, 48, 51-55, 58, 61 and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,385,551 to Shaw ("Shaw").

Claim 20 is amended herein to recite that the action of closing the cap causes initial engagement between the cap and the movable member. Shaw discloses that the cap is in contact with the movable member in both positions of the end cap. See, for example, Figures 1-4 or 6-8 of Shaw.

Claims 30 and 31 are amended to depend from claim 24, as claim 29 is cancelled without prejudice.

Claim 32 is amended herein to recite that the retractably mounted needle is held by a hollow movable member, and that the needle is retracted into and retained in the hollow movable member to prevent needle sticks. Claim 32 is amended to be consistent with the Examiner's reasons for the indication of allowable subject matter in paragraph 11 of the July 11, 2003 office action.

In paragraph 7 of the office action dated July 11, 2003, the Examiner, when describing the reference numerals of Shaw, cited the movable member as reference numeral 22, which is disclosed as the needle assembly. Shaw, col. 8, lines 23-25. Applicant submits, however, that Shaw explicitly teaches that the movable member can be, for example, a syringe plunger. Shaw, col. 4, lines 19-22. Preferably, selective movement of the movable member initiates retraction by relative movement between the needle holding member and the retainer member. Shaw, col. 4, lines 30-33. When Applicant, in his response dated April 24, 2003, stated that Shaw did not disclose a retractably mounted needle being releasably held by a movable member, Applicant was referencing the movable member as the term is used in Shaw at, for example, col. 4, lines 19-22 and 30-33. This is evidenced by the fact that in Applicant's response dated April 24, 2003, in which Claim 32 was amended to recite "a movable member," the amendment was supported by U.S. Patent No. 5,810,775 ("the '775 patent") at col. 5, line 67 – col. 6, lines 1-3, which discloses that the retraction body (60) is held by the inner surface (56) of wall (42) of movable member (40). See Fig. 1 of the '775 patent and col. 5, line 59 – col. 6, line 3. Applicant did not intend to describe the movable member as the needle assembly, which is designated by reference numeral 22 in Shaw.

Claim 36 is amended to delete the word "hollow" in light of the amendments to claim 32.

Claim 41 is amended herein to recite that a closeable cap is attached by a hinge to the outer body. Shaw does not disclose this feature of claim 41.

Claim 47 is amended herein to recite that a cap is mounted to the outer body to close the open end. Claim 47 is amended to be consistent with the Examiner's reasons

*a needle does
not impart
structure.*

for the indication of allowable subject matter in paragraph 11 of the July 11, 2003 office action.

Claims 49 and 50 are rewritten into independent form in view of paragraphs 9 and 11 of the July 11, 2003 office action.

Claim 54 is amended herein to recite that the end closure has an open position providing access to the hollow interior of the movable member and a blocking position with respect to the open end of the outer body that initiates contact with the movable member. Shaw, in contrast, discloses that the cap is in contact with the movable member in both positions of the end cap. See, for example, Figures 1-4 or 6-8 of Shaw.

Claim 61 is amended herein to recite that the end obstruction is attached to the outer body having a position independent of the movable member and initially contacting the movable member to move the movable member forward. Shaw does not disclose these features of claim 61.

Claim 62 is amended herein to recite that the blocking member is attached to the outer body adjacent its open end and does not traverse the movable member in a first position. Shaw also fails to disclose these features of claim 62.

Support for the amendments to claims 20, 30, 31, 32, 36, 41, 47, 49, 50, 54, 61, and 62 is found in the specification as originally filed.

In light of the amendments to claims 20, 30, 31, 32, 36, 41, 47, 49, 50, 54, 61, and 62, it is respectfully submitted that Shaw does not teach every aspect of Applicant's invention as defined by amended claims 20, 22, 24, 29, 32, 34, 41, 42, 47, 48, 51-55, 58, 61 and 62, and, therefore, does not anticipate amended claims 20, 22, 24, 29, 32, 34, 41, 42, 47, 48, 51-55, 58, 61 and 62.

All claims remaining in the application are believed to be in condition for allowance and patentable over the cited prior art. Withdrawal of the rejections and allowance of the application are therefore respectfully requested.

The Commissioner is hereby authorized to charge the fee due for two additional independent claims or any additional fee due to Locke Liddell & Sapp LLP Deposit Account No. 12-1781.

Respectfully submitted,



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